

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U 338-E) For Authority to, Among Other Things, Increase Its Authorized Revenues For Electric Service in 2006, And to Reflect That Increase in Rates.

Application 04-12-014
(Filed December 21, 2004)

**ADMINISTRATIVE LAW JUDGE'S RULING
DENYING THE INDEPENDENT ENERGY PRODUCERS ASSOCIATION'S
MOTION TO STRIKE**

Summary

This ruling denies the Independent Energy Producers Association's (IEP) motion to strike a portion of Southern California Edison Company's (SCE) testimony related to project development for new generation projects. Absent the Commission's development of a specific framework to consider the desirability of having utilities construct new generation subject to cost-of-service ratemaking, the general rate case (GRC) is a proper proceeding in which to consider the need for, cost of, and ratemaking treatment of, such project development activities.

IEP's Motion

On March 18, 2005, the Independent Energy Producers Association (IEP) filed a motion to strike the prepared testimony of Gerard Loughman, which appears at pages 20 through 29 of Exhibit No. SCE-2, Vol. 9 of the testimony submitted with SCE's application. That testimony describes SCE's request for \$5 million for project development for new generation.

IEP asserts there is a conflict between SCE's request for ratepayer funding of these project development costs and the Commission's order in Decision (D.) 04-12-048 for utilities to conduct open, transparent, and competitive all-source solicitations for new resources. IEP is concerned that fair competition in these solicitations would be undermined to the extent that the costs of utility-sponsored and turnkey projects would be subsidized by ratepayers outside of the bidding process.

IEP offers D.04-07-022, as support for its motion to strike. In that decision, the Commission stated, "We concur with SCE that if and when the Commission considers the desirability of having utilities construct new generation subject to cost-of-service ratemaking, there will be a need to consider an explicit framework governing risk allocation, rate of return, cost recovery, length of the arrangement, and disposition of any residual value."¹ IEP argues that the Commission has not yet considered or established this explicit framework for new generation subject to cost-of-service ratemaking, and therefore SCE's request is premature and should be not be considered in this proceeding.

IEP adds that with the usual array of general rate case topics, this proceeding will have enough to consider without having the additional burden of becoming the default forum for considering the complicated issues raised by the interaction of utility-owned projects and competitive solicitations.

In response to IEP's motion, SCE states, there is no reason that the GRC cannot be the forum for the Commission to decide whether utilities should have units dedicated to exploring opportunities for new generation. SCE argues that

¹ D.04-07-022, page 306.

D.04-07-022 does not bar it from making a request for project development in future GRCs and that IEP did not cite any Commission decision that explicitly bars a GRC from considering this topic. SCE notes that it was specifically directed to submit such testimony in its 2003 GRC. SCE also argues that, if the Commission begins to exclude issues from GRCs solely because they are complicated, it will set a bad precedent that will radically transform the nature of GRCs, whose purpose is “to develop and adopt sound, informed estimates of the reasonable costs to be incurred in the test year.”²

In reply to SCE, IEP states that an explicit framework governing risk allocation, rate of return, cost recovery, length of arrangement and disposition of residual value is a precondition for the recovery in rates of project development costs. IEP also states that the development of such a framework is not appropriate for a GRC.

Discussion

A GRC is the forum for the Commission to consider a utility’s request for funding related to numerous base rate related costs. From an accounting standpoint, project development costs fall within the scope of a GRC. As such it is appropriate to consider project development costs in this proceeding and determine the need for and magnitude of such costs.

A GRC is also the forum to review and determine the ratemaking treatment for each of the base rate related costs. While most of the costs that are addressed in the GRC are recovered through rates charged to customers, certain costs may be excluded from such recovery. Ratepayer benefit is a major factor in

² SCE quotes D.04-07-022 at page 7.

determining whether ratepayers should support costs in rates. Other factors such as the competitive advantage related to ratepayer funding of new generation project development costs can also be considered in determining ratemaking treatment.

This proceeding will not establish the framework for considering the desirability of having utilities construct new generation subject to cost of service ratemaking. The development of an explicit framework governing risk allocation, rate of return, cost recovery, length of the arrangement and disposition of any residual values is beyond the scope of this proceeding. As IEP indicates, issues concerning multiple utilities are typically considered in proceedings related to Commission-instituted rulemakings or consolidated multiple applications, not in the GRC of a single utility. If such a framework were developed, it might preclude the need to address the project development issue in this GRC. However, absent such a framework, the need for, cost of, and ratemaking treatment of, project development costs for new generation projects can be considered in this GRC, based on current circumstances. If and when an explicit framework is developed, appropriate ratemaking adjustments, if needed, can be made to what is determined in this GRC.

IT IS RULED that the March 18, 2005 motion of the Independent Energy Producers Association to strike the prepared testimony of Gerald Loughman is denied.

Dated April 21, 2005, at San Francisco, California.

/s/ DAVID K. FUKUTOME

David K. Fukutome
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties for whom an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling Denying the Independent Energy Producers Association's Motion to Strike on all parties of record in this proceeding or their attorneys of record.

Dated April 21, 2005, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.